

Docket No.: 049480-0051



PATENT

DAC/I
A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	Customer Number: 20277
Matthew Brown	:	Confirmation Number: 8953
Application No.: 10/686,575	:	Group Art Unit: 1755
	:	Allowed: May 9, 2005
Filed: October 17, 2003	:	Examiner: Manlove, Shalie A.
	:	
For: HIGH-REFLECTANCE PAINT FOR HIGH-INTENSITY OPTICAL APPLICATIONS		

**COMMENTS RESPONSIVE TO STATEMENT OF
REASONS FOR ALLOWANCE
UNDER 37 C.F.R. § 104(e)**

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Statement of Reasons for Allowance accompanied the May 9, 2005 Notice of Allowability regarding the above-identified application. Entry of that Statement into the record should not be construed as any agreement with or acquiescence by Applicant in the stated reasoning.

The May 9, 2005 Statement gives a single reason for allowance that purportedly applies to all of the allowed claims (46-49). Such a Statement does not accurately represent the actual scope of allowable claims.

For example, the Statement uses "consisting essentially of" terminology with reference to the pigment. Claim 48 does specify a pigment consisting essentially of uncalcined zinc-oxide pigment and 1/2% by weight of propionic acid. However, Applicant's position on patentability of this claim should be clear from Applicant's responses, and further comment by the Examiner should be unnecessary at this time. Certainly, the Statement should not be used to construed

claim 48, to the extent if any that the wording of the Statement may differ from the wording of the claim and/or from Applicant's position on patentability thereof.

Claim 47 was indicated allowable over the art in the May 26, 2004 first Action on the merits, that is to say without an art rejection or need to comment as to the basis for its patentability. Also, the wording of claim 47 is somewhat different from that of claim 48 and is different from the wording of the Statement of Reasons for Allowance. For example, claim 47 does not use the "consisting essentially of" terminology with reference to the pigment. Instead, claim 47 recites a pigment comprising a predominant proportion of uncalcined zinc-oxide and later states that the pigment contains 1/2% by weight of propionic acid.

Certainly, each claim is independently patentable in its own right, not just for one general reason as suggested by the Statement.

It is respectfully submitted that the allowed claims should be entitled to the broadest reasonable interpretation and to the broadest range of equivalents that are appropriate in light of the language of the claims, the supporting disclosure and, to the extent applicable, Applicant's prosecution of the claims, without reference to the Statement of Reasons for Allowance.

To the extent necessary, if any, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Keith E. George
Registration No. 34,111

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 KEG:MWE
Facsimile: 202.756.8087
Date: June 29, 2005

**Please recognize our Customer No. 20277
as our correspondence address.**